**THE HON'BLE SRI JUSTICE C.V.RAMULU**

**W.P.No.30180 of 1996**

***Date:14.11.2006***

**Between:**

P.Subbarayudu

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PETITIONER

AND

The Managing Director and another.

---------RESPONDENTS

**ORDER:**

This writ petition is filed seeking a Mandamus directing the respondents to release the scale of pay of 1974 and 1978, for which the petitioner is entitled to, and grant him the benefit for the period from 01.01.976 to 31.12.1982 and July 1986 to 01.04.1987 in accordance with the rules on par with the juniors, who were granted such benefit.

It is the case of the petitioner that he was engaged as a Head Mazdoor in Andhra Pradesh Industrial Infrastructure Corporation (first respondent herein) from August, 1975 in the scale of pay of 50-01-59-02-75 with all other allowances, purely on temporary basis for a period of three months. Though he was continued, there was a break at the end of 89$^{th}$ day, as per the existing policy. Thereafter, the petitioner was appointed as Messenger with effect from 21.05.1982, purely on temporary basis, for a period of 89 days. His services were regularized with effect from 01.04.1987, however he was refused pay scale at Rs.740-15-950-20-1150, which was applicable to him.

The grievance of the petitioner is that he worked from 1975 to 1987 on regular basis with artificial breaks and, therefore, the benefit of 1974 and 1978 Scales should be extended to him.

The first respondent filed counter-affidavit stating that since the petitioner was engaged on temporary basis with break of service, the revised scales of 1974 and 1978 cannot be made applicable to him. As such, the allegation that the respondents refused to pay scales of

1974 and 1978 is not correct. It is also stated that certain work-charged employees originally appointed in the scale of pay and subsequently brought into consolidated pay approached the Labour Court in Miscellaneous Petition Nos.87 to 93 of 1983 seeking relief of pay scales, D.A. merged scales and consequential benefits. The Labour Court, through its judgment, dated 31.08.1984, allowed the petitions holding that they are entitled to the scale of pay since they were originally appointed in the scale of pay and subsequently brought into consolidated pay. That is not the position insofar as the petitioner is concerned.

It is not in dispute that the petitioner was appointed in the year 1975, purely on temporary basis. It is an admitted fact that there was a break in service of the petitioner after completion of 89$^{th}$ day. Therefore, he was continued for a long time on a daily wage basis. Thereafter, his services were regularized with effect from 1987 and pay scale as available as on that date was extended to him. Now, it is the case of the petitioner that some employees, who were juniors to him, had approached the Labour Court and consequently they were extended the benefits of pay scale, and therefore, he should also be extended the said benefits. It seems the Labour Court, on the basis of the fact that the persons who approached it were work-charged employees and thereafter they were put into consolidated pay, granted the said relief. As rightly stated in the counter-affidavit filed on behalf of the first respondent, that is not the situation in case of the petitioner herein. Under these circumstances, I am of the opinion that the petitioner is not entitled for applicability of the revised pay scale of 1974 and 1978. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

The writ petition is accordingly dismissed. There shall be no order as to costs.

14.11.2006

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